

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

STATE OF OKLAHOMA, et al.)	
)	
Plaintiffs,)	
)	
vs.)	4:05-cv-00329-GKF-SAJ
)	
TYSON FOODS, INC., et al.,)	
)	
Defendants.)	

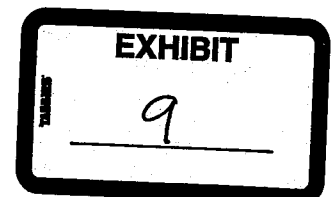
**TYSON FOODS, INC.'S RESPONSES TO THE
STATE OF OKLAHOMA'S INTERROGATORIES AND REQUESTS FOR
PRODUCTION OF DOCUMENTS OF MARCH 17, 2009**

Defendant TYSON FOODS, INC. (hereinafter referred to as "Defendant" or "Tyson Foods") submits its Responses to the State of Oklahoma's Interrogatories and Requests for Production of Documents of March 17, 2009. Tyson Foods submits these answers and responses for itself and not for any other person or entity.

INTERROGATORIES

INTERROGATORY NO. 1: Please identify for each instance (including, where available, specific date, specific location, tonnage of waste applied, acreage upon which it was applied, and STP before application) in which poultry waste generated at your poultry feeding operations, or at poultry feeding operations under contract with you, has been land applied within the IRW as fertilizer, identifying all witnesses to the application and all documents evidencing it.

RESPONSE TO INTERROGATORY NO. 1: Objection. Interrogatory No. 1 is untimely. Additionally, the State of Oklahoma has exceeded the number of interrogatories allowed under Federal Rule of Civil Procedure 33(a)(1). Plaintiffs have previously served a total of 26 interrogatories upon Defendant Tyson Foods, Inc.



Further, Interrogatory No. 1 seeks information which is the subject of previously served and answered interrogatories, requests for production, and requests for admission. *See* July 10, 2006 Set of Requests for Production, RFP Nos. 13-14 and 58-59 and responses thereto, including documents Bates numbered TSN88893SOK – TSN88943SOK, TSN88945SOK – TSN88949SOK, TSN89062SOK – TSN89293SOK, TSN89502SOK – TSN89515SOK, TSN89579SOK – TSN89656SOK, TSN89662SOK – TSN89664SOK, TSN89674SOK – TSN89681SOK, TSN89682SOK, TSN89690SOK – TSN107695SOK, TSN112595SOK – TSN115598SOK, TSN112603SOK, TSN112608SOK – TSN112610SOK, TSN112625SOK, TSN113738SOK – TSN113739SOK, TSN113898SOK – TSN113891SOK, TSN113935SOK – TSN113936SOK, TSN114364SOK – TSN114378SOK, TSN114549SOK – TSN114545SOK, TSN114670SOK, TSN114718SOK – TSN114725SOK, TSN114727SOK – TSN114730SOK, TSN117054SOK – TSN117074SOK, TSN117317SOK – TSN117327SOK, TSN117349SOK – TSN117372SOK, TSN118075SOK, TSN118083SOK – TSN118084SOK, TSN118145SOK – TSN118148SOK, TSN118145SOK – TSN118148SOK, TSN121263SOK – TSN121266SOK, TSN121505SOK – TSN121509SOK, TSN121810SOK – TSN121826SOK, TSN121984SOK – TSN121987SOK, TSN122012SOK, TSN122039SOK – TSN122042SOK, TSN122197SOK, TSN122568SOK – TSN122569SOK, and TSN124099SOK – TSN124127SOK; April 20, 2007 Set of Requests to Admit and Request for Production, RFA No. 1 and RFP No. 1 and responses thereto; September 13, 2007 Set of Interrogatories and Requests for Production, Interrogatory Nos. 6-7 and RFP No. 16 and responses thereto.

Additionally, Plaintiffs have conducted 30(b)(6) depositions of Defendant Tyson Foods, Inc. on the following topics associated with the land application of poultry litter: a) “industry practice and your contract poultry growers practice regarding handling, storage, and spreading on

land of poultry waste” and b) “the amount of and specific locations, past and present, where poultry waste generated by each and all of your poultry growing operations has been spread on land within the IRW.”

Subject to and without waiving the foregoing objections, Tyson Foods has no knowledge of specific land applications of poultry litter generated at poultry feeding operations under contract with it. Tyson Foods does not routinely maintain litter application records, but any such documents which are in the possession of Tyson Foods are located in grower files Bates numbered TSN0001SOK – TSN42738SOK, TSN63343SOK – TSN65031SOK, TSN90421SOK – TSN107965SOK, TSN125639SOK – TSN127425SOK, and TSN128050SOK – TSN141138SOK.

INTERROGATORY NO. 2: Please identify for each instance (including, where available, specific date, specific location, tonnage of waste applied, acreage upon which it was applied, and STP before application) where poultry waste generated at your poultry feeding operations, or at poultry feeding operations under contract with you, has been land applied within the IRW which has not resulted in any run-off or leaching, identifying all witnesses to the application and all documents evidencing it.

RESPONSE TO INTERROGATORY NO. 2: Objection. Interrogatory No. 2 is untimely. Additionally, the State of Oklahoma has exceeded the number of interrogatories allowed under Federal Rule of Civil Procedure 33(a)(1). Plaintiffs have previously served a total of 26 interrogatories upon Defendant Tyson Foods, Inc.

Further, Interrogatory No. 2 seeks information which is the subject of previously served and answered interrogatories, requests for production, and requests for admission. *See* July 10, 2006 Set of Requests for Production, RFP Nos. 13-14 and 58-59 and responses thereto, including

documents Bates numbered TSN88893SOK – TSN88943SOK, TSN88945SOK – TSN88949SOK, TSN89062SOK – TSN89293SOK, TSN89502SOK – TSN89515SOK, TSN89579SOK – TSN89656SOK, TSN89662SOK – TSN89664SOK, TSN89674SOK – TSN89681SOK, TSN89682SOK, TSN89690SOK – TSN107695SOK, TSN112595SOK – TSN115598SOK, TSN112603SOK, TSN112608SOK – TSN112610SOK, TSN112625SOK, TSN113738SOK – TSN113739SOK, TSN113898SOK – TSN113891SOK, TSN113935SOK – TSN113936SOK, TSN114364SOK – TSN114378SOK, TSN114549SOK – TSN114545SOK, TSN114670SOK, TSN114718SOK – TSN114725SOK, TSN114727SOK – TSN114730SOK, TSN117054SOK – TSN117074SOK, TSN117317SOK – TSN117327SOK, TSN117349SOK – TSN117372SOK, TSN118075SOK, TSN118083SOK – TSN118084SOK, TSN118145SOK – TSN118148SOK, TSN118145SOK – TSN118148SOK, TSN121263SOK – TSN121266SOK, TSN121505SOK – TSN121509SOK, TSN121810SOK – TSN121826SOK, TSN121984SOK – TSN121987SOK, TSN122012SOK, TSN122039SOK – TSN122042SOK, TSN122197SOK, TSN122568SOK – TSN122569SOK, and TSN124099SOK – TSN124127SOK; April 20, 2007 Set of Requests to Admit and Request for Production, RFA No. 1 and RFP No. 1 and responses thereto; September 13, 2007 Set of Interrogatories and Requests for Production, Interrogatory Nos. 6-7 and RFP No. 16 and responses thereto.

Additionally, Plaintiffs have conducted 30(b)(6) depositions of Defendant Tyson Foods, Inc. on the following topics associated with the land application of poultry litter: a) “industry practice and your contract poultry growers practice regarding handling, storage, and spreading on land of poultry waste” and b) “the amount of and specific locations, past and present, where poultry waste generated by each and all of your poultry growing operations has been spread on land within the IRW.”

Interrogatory No. 2 is vague and ambiguous as it does not specifically identify as the subject of inquiry any particular substance of potential run-off or leaching. Further, through Interrogatory No. 2, Plaintiffs attempt to shift the burden of proof in this action. Plaintiff is required to prove that run-off or leaching has occurred; Tyson Foods is not required to prove that run-off or leaching has not occurred.

Subject to and without waiving the foregoing objections, Tyson Foods has no knowledge of specific land applications of poultry litter generated at poultry feeding operations under contract with it. Tyson Foods does not routinely maintain litter application records, but any such documents which are in the possession of Tyson Chicken are located in grower files Bates numbered TSN0001SOK – TSN42738SOK, TSN63343SOK – TSN65031SOK, TSN90421SOK – TSN107965SOK, TSN125639SOK – TSN127425SOK, and TSN128050SOK – TSN141138SOK.

Tyson Foods requires that its company-owned and company-managed poultry growing operations, as well as poultry growing operations under contract with it, follow all environmental laws and regulations, including those relating to obtaining and complying with an AWMP. As the purpose of an AWMP is to “protect the natural resources of the State” (O.A.C. 35:17-5-2), Tyson Foods submits that such AWMP’s are evidence that no run-off of any kind has occurred following the land application of poultry litter generated at its company-owned and company-managed poultry growing operations or at poultry growing operations under contract with it. All NMP’s and AWMP’s in the possession of Tyson Foods have been produced and are located within the grower files referenced above or within Bates range TSN18472SOK – TSN20640SOK.

REQUESTS FOR PRODUCTION OF DOCUMENTS

REQUEST FOR PRODUCTION NO. 1: Please produce all documents identified in the foregoing interrogatories.

RESPONSE TO REQUEST FOR PRODUCTION NO. 1: Objection. Request for Production No. 1 is untimely. Subject to and without waiving the foregoing objection, see Responses to Interrogatory Nos. 1 and 2.

REQUEST FOR PRODUCTION NO. 2: Please produce all documents evidencing land application of poultry waste from your poultry feeding operations, or those of your contract growers, in the IRW in which the land application was used as fertilizer, including but not limited to the specific date, specific location, tonnage of waste applied, acreage upon which it was applied, and STP before application.

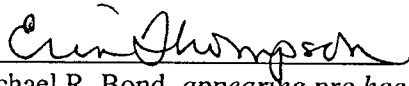
RESPONSE TO REQUEST FOR PRODUCTION NO. 2: Objection. Request for Production No. 2 is untimely. Subject to and without waiving the foregoing objection, see Response to Interrogatory No. 1.

REQUEST FOR PRODUCTION NO. 3: Please produce all documents evidencing land application of poultry waste from your poultry feeding operations, or those of your contract growers, in the IRW in which the land application of poultry waste has not resulted in any run-off or leaching, including but not limited to the specific date, specific location, tonnage of waste applied, acreage upon which it was applied, and STP before application.

RESPONSE TO REQUEST FOR PRODUCTION NO. 3: Objection. Request for Production No. 3 is untimely. Subject to and without waiving the foregoing objection, see Responses to Interrogatory Nos. 1 and 2.

Respectfully Submitted,

KUTAK ROCK LLP

By 

Michael R. Bond, *appearing pro hac vice*

Erin Thompson, *appearing pro hac vice*

Dustin R. Darst, *appearing pro hac vice*

KUTAK ROCK LLP

234 East Millsap Road, Suite 400

Fayetteville, Arkansas 72703-4099

(479) 973-4200 Telephone

(479) 973-0007 Facsimile

-and-

Robert W. George, OBA #18562

Bryan Burns, *appearing pro hac vice*

TYSON FOODS, INC.

2210 West Oaklawn Drive

Springdale, Arkansas 72762

(479) 290-4067 Telephone

(479) 290-7967 Facsimile

-and-

Patrick M. Ryan, OBA # 7864

Stephen L. Jantzen, OBA # 16247

Paula M. Buchwald, OBA # 20464

RYAN, WHALEY & COLDIRON, P.C.

119 North Robinson, Suite 900

Oklahoma City, Oklahoma 73102

(405) 239-6040 Telephone

(405) 239-6766 Facsimile

-and-

Jay T. Jorgensen, *appearing pro hac vice*
Thomas C. Green, *appearing pro hac vice*
Mark D. Hopson, *appearing pro hac vice*
Gordon Todd, *appearing pro hac vice*
SIDLEY AUSTIN LLP
1501 K Street, N.W.
Washington, D.C. 20005-1401
(202) 736-8000 Telephone
(202) 736-8711 Facsimile

Attorneys for Defendant
Tyson Foods, Inc.

CERTIFICATE OF SERVICE

I certify that on the 16th day of April 2009, I transmitted the attached document to the following:

W. A. Drew Edmondson, Attorney General
Kelly Hunter Burch, Assistant Attorney General
J. Trevor Hammons, Assistant Attorney General
Daniel P. Lennington, Assistant Attorney General

drew_edmondson@oag.state.ok.us
kelly_burch@oag.state.ok.us
trevor_hammons@oag.state.ok.us
daniel.lennington@oag.ok.gov

Douglas Allen Wilson
Melvin David Riggs
Richard T. Garren
Sharon K. Weaver
Robert Allen Nance
Dorothy Sharon Gentry
Joseph P. Lennart
David P. Page
RIGGS ABNEY NEAL TURPEN ORBISON & LEWIS

doug_wilson@riggsabney.com
driggs@riggsabney.com
rgarren@riggsabney.com
sweaver@riggsabney.com
rnance@riggsabney.com
sgentry@riggsabney.com
jlennart@riggsabney.com
dpage@riggsabney.com

Louis W. Bullock
Robert M. Blakemore
BULLOCK BULLOCK & BLAKEMORE, PLLC

lbullock@bullock-blakemore.com
bblakemore@bullock-blakemore.com

Frederick C. Baker
Lee M. Heath
William H. Narwold
Elizabeth C. Ward
Elizabeth Claire Xidis
Ingrid L. Moll
Jonathan D. Orent
Michael G. Rousseau
Fidelma L. Fitzpatrick
MOTLEY RICE, LLC
COUNSEL FOR PLAINTIFFS

fbaker@motleyrice.com
lheath@motleyrice.com
bnarwold@motleyrice.com
lward@motleyrice.com
cxidis@motleyrice.com
imoll@motleyrice.com
jorent@motleyrice.com
mrousseau@motleyrice.com
ffitzpatrick@motleyrice.com

A. Scott McDaniel
Nicole Longwell
Philip D. Hixon
Craig A. Mirkes
MCDANIEL HIXON LONGWELL & ACORD, PLLC

smcdaniel@mhla-law.com
nlongwell@mhla-law.com
phixon@mhla-law.com
cmirkes@mhla-law.com

Sherry P. Bartley
MITCHELL, WILLIAMS, SELIG, GATES & WOODYARD, PLLC
COUNSEL FOR PETERSON FARMS, INC.

sbartley@mws gw.com

R. Thomas Lay
KERR, IRVINE, RHODES & ABLES

rtl@kiralaw.com

David G. Brown dbrown@lathropgage.com
Jennifer S. Griffin jgriffin@lathropgage.com
LATHROP & GAGE, L.C.
COUNSEL FOR WILLOW BROOK FOODS, INC.

Robert P. Redemann rredemann@pmrlaw.net
David C. Senger dsenger@pmrlaw.net
PERRINE, MCGIVERN, REDEMANN, REID, BERRY & TAYLOR, PLLC

Robert E. Sanders rsanders@youngwilliams.com
E. Stephen Williams steve.williams@youngwilliams.com
YOUNG WILLIAMS P.A.
COUNSEL FOR CAL-MAINE FOODS, INC. AND CAL-MAINE FARMS, INC.

George W. Owens gwo@owenslawfirmpc.com
Randall E. Rose rer@owenslawfirmpc.com
THE OWENS LAW FIRM, P.C.

James M. Graves jgraves@bassettlawfirm.com
Gary V. Weeks gweeks@bassettlawfirm.com
Woody Bassett wbassett@bassettlawfirm.com
K.C. Dupps Tucker kctucker@bassettlawfirm.com
Earl Lee "Buddy" Chadick
BASSETT LAW FIRM
COUNSEL FOR GEORGE'S INC. AND GEORGE'S FARMS, INC.

John R. Elrod jelrod@cwlaw.com
Vicki Bronson vbronson@cwlaw.com
Bruce W. Freeman bfreeman@cwlaw.com
D. Richard Funk dfunk@cwlaw.com
P. Joshua Wisley jwisley@cwlaw.com
CONNER & WINTERS, PLLC
COUNSEL FOR SIMMONS FOODS, INC.

John H. Tucker jtucker@rhodesokla.com
Colin H. Tucker chtucker@rhodesokla.com
Theresa Noble Hill thill@rhodesokla.com
Kerry R. Lewis klewiscourts@rhodesokla.com
RHODES, HIERONYMUS, JONES, TUCKER & GABLE

Terry W. West terry@thewestlawfirm.com
THE WEST LAW FIRM

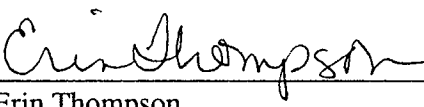
Delmar R. Ehrich dehrich@faegre.com
Bruce Jones bjones@faegre.com
Krisann C. Kleibacker Lee kklee@faegre.com
Todd P. Walker twalker@faegre.com
Melissa C. Collins mcollins@faegre.com
FAEGRE & BENSON LLP

Dara D. Mann dmann@mckennalong.com

MCKENNA, LONG & ADLRIDGE, LLP
COUNSEL FOR CARGILL, INC. AND CARGILL TURKEY PRODUCTION, LLC

I also hereby certify that I served the attached documents by United States Postal Service, proper postage paid, on the following:

Mr. J.D. Strong
Secretary of the Environment
State of Oklahoma
3800 North Classen
Oklahoma City, OK 73118


Erin Thompson

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

STATE OF OKLAHOMA, et al.)	
)	
Plaintiffs,)	
)	
vs.)	4:05-cv-00329-GKF-SAJ
)	
TYSON FOODS, INC., et al.,)	
)	
Defendants.)	

**TYSON POULTRY, INC.'S RESPONSES TO THE
STATE OF OKLAHOMA'S INTERROGATORIES AND REQUESTS FOR
PRODUCTION OF DOCUMENTS OF MARCH 17, 2009**

Defendant TYSON POULTRY, INC. (hereinafter referred to as "Defendant" or "Tyson Poultry") submits its Responses to the State of Oklahoma's Interrogatories and Requests for Production of Documents of March 17, 2009. Tyson Poultry submits these answers and responses for itself and not for any other person or entity.

INTERROGATORIES

INTERROGATORY NO. 1: Please identify for each instance (including, where available, specific date, specific location, tonnage of waste applied, acreage upon which it was applied, and STP before application) in which poultry waste generated at your poultry feeding operations, or at poultry feeding operations under contract with you, has been land applied within the IRW as fertilizer, identifying all witnesses to the application and all documents evidencing it.

RESPONSE TO INTERROGATORY NO. 1: Objection. Interrogatory No. 1 is untimely. Additionally, the State of Oklahoma has exceeded the number of interrogatories allowed under Federal Rule of Civil Procedure 33(a)(1). Plaintiffs have previously served a total of 26 interrogatories upon Defendant Tyson Poultry, Inc.

Further, Interrogatory No. 1 seeks information which is the subject of previously served and answered interrogatories, requests for production, and requests for admission. *See* July 10, 2006 Set of Requests for Production, RFP Nos. 13-14 and 58-59 and responses thereto, including documents Bates numbered TSN112603SOK, TSN112625SOK, TSN113738SOK – TSN112739SOK, TSN114670SOK, TSN114718SOK – TSN114725SOK, TSN114727SOK – TSN114730SOK, TSN122568SOK – TSN122569SOK, TSN159236SOK – TSN159359SOK, TSN159528SOK – TSN159554SOK, TSN159573SOK – TSN159577SOK, TSN159750SOK – TSN159751SOK, TSN161606SOK, TSN162772SOK – TSN162935SOK, TSN162940SOK – TSN162945SOK, TSN162951SOK – TSN162957SOK, and TSN162958SOK – TSN162971SOK; April 20, 2007 Set of Requests to Admit and Request for Production, RFA No. 1 and RFP No. 1 and responses thereto; September 13, 2007 Set of Interrogatories and Requests for Production, Interrogatory Nos. 6-7 and RFP No. 16 and responses thereto.

Additionally, Plaintiffs have conducted 30(b)(6) depositions of Defendant Tyson Poultry, Inc. on the following topics associated with the land application of poultry litter: a) “industry practice and your contract poultry growers practice regarding handling, storage, and spreading on land of poultry waste” and b) “the amount of and specific locations, past and present, where poultry waste generated by each and all of your poultry growing operations has been spread on land within the IRW.”

Subject to and without waiving the foregoing objections, Tyson Poultry has no knowledge of specific land applications of poultry litter generated at poultry feeding operations under contract with it. Tyson Poultry does not routinely maintain litter application records for poultry growing operations under contract with it, but any such documents which are in the possession of Tyson Poultry are located in grower files Bates numbered TSN0001SOK –

TSN42738SOK, TSN63343SOK – TSN65031SOK, TSN90421SOK – TSN107965SOK, TSN125639SOK – TSN127425SOK, and TSN128050SOK – TSN141138SOK.

INTERROGATORY NO. 2: Please identify for each instance (including, where available, specific date, specific location, tonnage of waste applied, acreage upon which it was applied, and STP before application) where poultry waste generated at your poultry feeding operations, or at poultry feeding operations under contract with you, has been land applied within the IRW which has not resulted in any run-off or leaching, identifying all witnesses to the application and all documents evidencing it.

RESPONSE TO INTERROGATORY NO. 2: Objection. Interrogatory No. 2 is untimely. Additionally, the State of Oklahoma has exceeded the number of interrogatories allowed under Federal Rule of Civil Procedure 33(a)(1). Plaintiffs have previously served a total of 26 interrogatories upon Defendant Tyson Poultry, Inc.

Further, Interrogatory No. 2 seeks information which is the subject of previously served and answered interrogatories, requests for production, and requests for admission. *See* July 10, 2006 Set of Requests for Production, RFP Nos. 13-14 and 58-59 and responses thereto, TSN112603SOK, TSN112625SOK, TSN113738SOK – TSN112739SOK, TSN114670SOK, TSN114718SOK – TSN114725SOK, TSN114727SOK – TSN114730SOK, TSN122568SOK – TSN122569SOK, TSN159236SOK – TSN159359SOK, TSN159528SOK – TSN159554SOK, TSN159573SOK – TSN159577SOK, TSN159750SOK – TSN159751SOK, TSN161606SOK, TSN162772SOK – TSN162935SOK, TSN162940SOK – TSN162945SOK, TSN162951SOK – TSN162957SOK, and TSN162958SOK – TSN162971SOK; April 20, 2007 Set of Requests to Admit and Request for Production, RFA No. 1 and RFP No. 1 and responses thereto; September 13, 2007 Set of Interrogatories and Requests for Production, Interrogatory Nos. 6-7 and RFP No.

16 and responses thereto.

Additionally, Plaintiffs have conducted 30(b)(6) depositions of Defendant Tyson Poultry, Inc. on the following topics associated with the land application of poultry litter: a) “industry practice and your contract poultry growers practice regarding handling, storage, and spreading on land of poultry waste” and b) “the amount of and specific locations, past and present, where poultry waste generated by each and all of your poultry growing operations has been spread on land within the IRW.”

Interrogatory No. 2 is vague and ambiguous as it does not specifically identify as the subject of inquiry any particular substance of potential run-off or leaching. Further, through Interrogatory No. 2, Plaintiffs attempt to shift the burden of proof in this action. Plaintiff is required to prove that run-off or leaching has occurred; Tyson Poultry is not required to prove that run-off or leaching has not occurred.

Subject to and without waiving the foregoing objections, Tyson Poultry has no knowledge of specific land applications of poultry litter generated at poultry feeding operations under contract with it. Tyson Poultry does not routinely maintain litter application records for poultry growing operations under contract with it, but any such documents which are in the possession of Tyson Poultry are located in grower files Bates numbered TSN0001SOK – TSN42738SOK, TSN63343SOK – TSN65031SOK, TSN90421SOK – TSN107965SOK, TSN125639SOK – TSN127425SOK, and TSN128050SOK – TSN141138SOK.

Tyson Poultry requires that poultry growing operations under contract with it follow all environmental laws and regulations, including those relating to obtaining and complying with an AWMP. As the purpose of an AWMP is to “protect the natural resources of the State” (O.A.C. 35:17-5-2), Tyson Poultry submits that such AWMP’s are evidence that no run-off of any kind

has occurred following the land application of poultry litter generated at poultry growing operations under contract with it. All NMP's and AWP's in the possession of Tyson Poultry have been produced and are located within the above-referenced contract grower files or within the following Bates range: TSN18472SOK – TSN20640SOK.

REQUESTS FOR PRODUCTION OF DOCUMENTS

REQUEST FOR PRODUCTION NO. 1: Please produce all documents identified in the foregoing interrogatories.

RESPONSE TO REQUEST FOR PRODUCTION NO. 1: Objection. Request for Production No. 1 is untimely. Subject to and without waiving the foregoing objection, see Responses to Interrogatory Nos. 1 and 2.

REQUEST FOR PRODUCTION NO. 2: Please produce all documents evidencing land application of poultry waste from your poultry feeding operations, or those of your contract growers, in the IRW in which the land application was used as fertilizer, including but not limited to the specific date, specific location, tonnage of waste applied, acreage upon which it was applied, and STP before application.

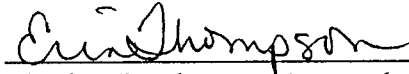
RESPONSE TO REQUEST FOR PRODUCTION NO. 2: Objection. Request for Production No. 2 is untimely. Subject to and without waiving the foregoing objection, see Response to Interrogatory No. 1.

REQUEST FOR PRODUCTION NO. 3: Please produce all documents evidencing land application of poultry waste from your poultry feeding operations, or those of your contract growers, in the IRW in which the land application of poultry waste has not resulted in any run-off or leaching, including but not limited to the specific date, specific location, tonnage of waste applied, acreage upon which it was applied, and STP before application.

RESPONSE TO REQUEST FOR PRODUCTION NO. 3: Objection. Request for Production No. 3 is untimely. Subject to and without waiving the foregoing objection, see Responses to Interrogatory Nos. 1 and 2.

Respectfully Submitted,

KUTAK ROCK LLP

By 

Michael R. Bond, *appearing pro hac vice*
Erin Thompson, *appearing pro hac vice*
Dustin R. Darst, *appearing pro hac vice*
KUTAK ROCK LLP
234 East Millsap Road, Suite 400
Fayetteville, Arkansas 72703-4099
(479) 973-4200 Telephone
(479) 973-0007 Facsimile

-and-

Robert W. George, OBA #18562
Bryan Burns, *appearing pro hac vice*
TYSON FOODS, INC.
2210 West Oaklawn Drive
Springdale, Arkansas 72762
(479) 290-4067 Telephone
(479) 290-7967 Facsimile

-and-

Patrick M. Ryan, OBA # 7864
Stephen L. Jantzen, OBA # 16247
Paula M. Buchwald, OBA # 20464
RYAN, WHALEY & COLDIRON, P.C.
119 North Robinson, Suite 900
Oklahoma City, Oklahoma 73102
(405) 239-6040 Telephone
(405) 239-6766 Facsimile

-and-

Jay T. Jorgensen, *appearing pro hac vice*
Thomas C. Green, *appearing pro hac vice*
Mark D. Hopson, *appearing pro hac vice*
Gordon Todd, *appearing pro hac vice*
SIDLEY AUSTIN LLP
1501 K Street, N.W.
Washington, D.C. 20005-1401
(202) 736-8000 Telephone
(202) 736-8711 Facsimile

Attorneys for Defendant
Tyson Poultry, Inc.

CERTIFICATE OF SERVICE

I certify that on the 16th day of April 2009, I electronically transmitted the attached document to the following:

W. A. Drew Edmondson, Attorney General
Kelly Hunter Burch, Assistant Attorney General
J. Trevor Hammons, Assistant Attorney General
Daniel P. Lennington, Assistant Attorney General

drew_edmondson@oag.state.ok.us
kelly_burch@oag.state.ok.us
trevor_hammons@oag.state.ok.us
daniel.lennington@oag.ok.gov

Douglas Allen Wilson
Melvin David Riggs
Richard T. Garren
Sharon K. Weaver
Robert Allen Nance
Dorothy Sharon Gentry
Joseph P. Lennart
David P. Page
RIGGS ABNEY NEAL TURPEN ORBISON & LEWIS

doug_wilson@riggsabney.com
driggs@riggsabney.com
rgarren@riggsabney.com
sweaver@riggsabney.com
rnance@riggsabney.com
sgentry@riggsabney.com
jlennart@riggsabney.com
dpage@riggsabney.com

Louis W. Bullock
Robert M. Blakemore
BULLOCK BULLOCK & BLAKEMORE, PLLC

lbullock@bullock-blakemore.com
bblakemore@bullock-blakemore.com

Frederick C. Baker
Lee M. Heath
William H. Narwold
Elizabeth C. Ward
Elizabeth Claire Xidis
Ingrid L. Moll
Jonathan D. Orent
Michael G. Rousseau
Fidelma L. Fitzpatrick
MOTLEY RICE, LLC
COUNSEL FOR PLAINTIFFS

fbaker@motleyrice.com
lheath@motleyrice.com
bnarwold@motleyrice.com
lward@motleyrice.com
cxidis@motleyrice.com
imoll@motleyrice.com
jorent@motleyrice.com
mrousseau@motleyrice.com
ffitzpatrick@motleyrice.com

A. Scott McDaniel
Nicole Longwell
Philip D. Hixon
Craig A. Mirkes
MCDANIEL HIXON LONGWELL & ACORD, PLLC

smcdaniel@mhla-law.com
nlongwell@mhla-law.com
phixon@mhla-law.com
cmirkes@mhla-law.com

Sherry P. Bartley
MITCHELL, WILLIAMS, SELIG, GATES & WOODYARD, PLLC
COUNSEL FOR PETERSON FARMS, INC.

sbartley@mwsgw.com

R. Thomas Lay
KERR, IRVINE, RHODES & ABLES

rtl@kiralaw.com

David G. Brown
Jennifer S. Griffin
LATHROP & GAGE, L.C.

dbrown@lathropgage.com
jgriffin@lathropgage.com

COUNSEL FOR WILLOW BROOK FOODS, INC.

Robert P. Redemann
David C. Senger

rredemann@pmrlaw.net
dsenger@pmrlaw.net

PERRINE, MCGIVERN, REDEMANN, REID, BERRY & TAYLOR, PLLC

Robert E. Sanders
E. Stephen Williams
YOUNG WILLIAMS P.A.

rsanders@youngwilliams.com
steve.williams@youngwilliams.com

COUNSEL FOR CAL-MAINE FOODS, INC. AND CAL-MAINE FARMS, INC.

George W. Owens
Randall E. Rose
THE OWENS LAW FIRM, P.C.

gwo@owenslawfirmmpc.com
rer@owenslawfirmmpc.com

James M. Graves
Gary V. Weeks
Woody Bassett
K.C. Dupps Tucker
Earl Lee "Buddy" Chadick
BASSETT LAW FIRM

jgraves@bassettlawfirm.com
gweeks@bassettlawfirm.com
wbassett@bassettlawfirm.com
kctucker@bassettlawfirm.com

COUNSEL FOR GEORGE'S INC. AND GEORGE'S FARMS, INC.

John R. Elrod
Vicki Bronson
Bruce W. Freeman
D. Richard Funk
P. Joshua Wisley
CONNER & WINTERS, PLLC

jelrod@cwlaw.com
vbronson@cwlaw.com
bfreeman@cwlaw.com
dfunk@cwlaw.com
jwisley@cwlaw.com

COUNSEL FOR SIMMONS FOODS, INC.

John H. Tucker
Colin H. Tucker
Theresa Noble Hill
Kerry R. Lewis
RHODES, HIERONYMUS, JONES, TUCKER & GABLE

jtucker@rhodesokla.com
chtucker@rhodesokla.com
thill@rhodesokla.com
klewiscourts@rhodesokla.com

Terry W. West
THE WEST LAW FIRM

terry@thewestlawfirm.com

Delmar R. Ehrich
Bruce Jones
Krisann C. Kleibacker Lee
Todd P. Walker
Melissa C. Collins
FAEGRE & BENSON LLP

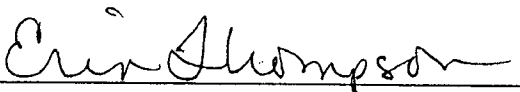
dehrich@faegre.com
bjones@faegre.com
kklee@faegre.com
twalker@faegre.com
mcollins@faegre.com

Dara D. Mann
MCKENNA, LONG & ADLRIDGE, LLP
COUNSEL FOR CARGILL, INC. AND CARGILL TURKEY PRODUCTION, LLC

dmann@mckennalong.com

I also hereby certify that I served the attached documents by United States Postal Service, proper postage paid, on the following:

Mr. J.D. Strong
Secretary of the Environment
State of Oklahoma
3800 North Classen
Oklahoma City, OK 73118


Erin Thompson

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

STATE OF OKLAHOMA, et al.)	
)	
Plaintiffs,)	
)	
vs.)	4:05-cv-00329-GKF-SAJ
)	
TYSON FOODS, INC., et al.,)	
)	
Defendants.)	

**TYSON CHICKEN, INC.'S RESPONSES TO THE
STATE OF OKLAHOMA'S INTERROGATORIES AND REQUESTS FOR
PRODUCTION OF DOCUMENTS OF MARCH 17, 2009**

Defendant TYSON CHICKEN, INC. (hereinafter referred to as "Defendant" or "Tyson Chicken") submits its Responses to the State of Oklahoma's Interrogatories and Requests for Production of Documents of March 17, 2009. Tyson Chicken submits these answers and responses for itself and not for any other person or entity.

INTERROGATORIES

INTERROGATORY NO. 1: Please identify for each instance (including, where available, specific date, specific location, tonnage of waste applied, acreage upon which it was applied, and STP before application) in which poultry waste generated at your poultry feeding operations, or at poultry feeding operations under contract with you, has been land applied within the IRW as fertilizer, identifying all witnesses to the application and all documents evidencing it.

RESPONSE TO INTERROGATORY NO. 1: Objection. Interrogatory No. 1 is untimely. Additionally, the State of Oklahoma has exceeded the number of interrogatories allowed under Federal Rule of Civil Procedure 33(a)(1). Plaintiffs have previously served a total of 26 interrogatories upon Defendant Tyson Chicken, Inc.

Further, Interrogatory No. 1 seeks information which is the subject of previously served and answered interrogatories, requests for production, and requests for admission. *See* July 10, 2006 Set of Requests for Production, RFP Nos. 13-14 and 58-59 and responses thereto, including documents Bates numbered TSN112595SOK – TSN112598SOK, TSN112603SOK, TSN112608SOK – TSN112610SOK, TSN112625SOK, TSN113738SOK – TSN113739SOK, TSN113889SOK – TSN113891SOK, TSN113935SOK – TSN113936SOK, TSN114364SOK – TSN114378SOK, TSN114549SOK – TSN114565SOK, TSN114670SOK, TSN114718SOK – TSN114725SOK, TSN114727SOK – TSN114730SOK, TSN122568SOK – TSN122569SOK, and TSN157975SOK; April 20, 2007 Set of Requests to Admit and Request for Production, RFA No. 1 and RFP No. 1 and responses thereto; September 13, 2007 Set of Interrogatories and Requests for Production, Interrogatory Nos. 6-7 and RFP No. 16 and responses thereto.

Additionally, Plaintiffs have conducted 30(b)(6) depositions of Defendant Tyson Chicken, Inc. on the following topics associated with the land application of poultry litter: a) “industry practice and your contract poultry growers practice regarding handling, storage, and spreading on land of poultry waste” and b) “the amount of and specific locations, past and present, where poultry waste generated by each and all of your poultry growing operations has been spread on land within the IRW.”

Subject to and without waiving the foregoing objections, Tyson Chicken has no knowledge of specific land applications of poultry litter generated at poultry feeding operations under contract with it. Tyson Chicken does not routinely maintain litter application records, but any such documents which are in the possession of Tyson Chicken are located in grower files Bates numbered TSN42786SOK – TSN59499SOK, TSN62427SOK – TSN63342SOK, TSN65032SOK – TSN86625SOK, TSN89690SOK – TSN90078SOK, TSN118280SOK –

TSN119578SOK, TSN127426SOK – TSN128049SOK, and TSN141139SOK – TSN154304SOK.

INTERROGATORY NO. 2: Please identify for each instance (including, where available, specific date, specific location, tonnage of waste applied, acreage upon which it was applied, and STP before application) where poultry waste generated at your poultry feeding operations, or at poultry feeding operations under contract with you, has been land applied within the IRW which has not resulted in any run-off or leaching, identifying all witnesses to the application and all documents evidencing it.

RESPONSE TO INTERROGATORY NO. 2: Objection. Interrogatory No. 2 is untimely. Additionally, the State of Oklahoma has exceeded the number of interrogatories allowed under Federal Rule of Civil Procedure 33(a)(1). Plaintiffs have previously served a total of 26 interrogatories upon Defendant Tyson Chicken, Inc.

Further, Interrogatory No. 2 seeks information which is the subject of previously served and answered interrogatories, requests for production, and requests for admission. *See* July 10, 2006 Set of Requests for Production, RFP Nos. 13-14 and 58-59 and responses thereto, including documents Bates numbered TSN112595SOK – TSN112598SOK, TSN112603SOK, TSN112608SOK – TSN112610SOK, TSN112625SOK, TSN113738SOK – TSN113739SOK, TSN113889SOK – TSN113891SOK, TSN113935SOK – TSN113936SOK, TSN114364SOK – TSN114378SOK, TSN114549SOK – TSN114565SOK, TSN114670SOK, TSN114718SOK – TSN114725SOK, TSN114727SOK – TSN114730SOK, TSN122568SOK – TSN122569SOK, and TSN157975SOK; April 20, 2007 Set of Requests to Admit and Request for Production, RFA No. 1 and RFP No. 1 and responses thereto; September 13, 2007 Set of Interrogatories and Requests for Production, Interrogatory Nos. 6-7 and RFP No. 16 and responses thereto.

Additionally, Plaintiffs have conducted 30(b)(6) depositions of Defendant Tyson Chicken, Inc. on the following topics associated with the land application of poultry litter: a) “industry practice and your contract poultry growers practice regarding handling, storage, and spreading on land of poultry waste” and b) “the amount of and specific locations, past and present, where poultry waste generated by each and all of your poultry growing operations has been spread on land within the IRW.”

Interrogatory No. 2 is vague and ambiguous as it does not specifically identify as the subject of inquiry any particular substance of potential run-off or leaching. Further, through Interrogatory No. 2, Plaintiffs attempt to shift the burden of proof in this action. Plaintiff is required to prove that run-off or leaching has occurred; Tyson Chicken is not required to prove that run-off or leaching has not occurred.

Subject to and without waiving the foregoing objections, Tyson Chicken has no knowledge of specific land applications of poultry litter generated at poultry feeding operations under contract with it. Tyson Chicken does not routinely maintain litter application records for poultry growing operations under contract with it, but any such documents which are in the possession of Tyson Chicken are located in grower files Bates numbered are located in grower files Bates numbered TSN42786SOK – TSN59499SOK, TSN62427SOK – TSN63342SOK, TSN65032SOK – TSN86625SOK, TSN89690SOK – TSN90078SOK, TSN118280SOK – TSN119578SOK, TSN127426SOK – TSN128049SOK, and TSN141139SOK – TSN154304SOK.

Tyson Chicken requires that its company-owned and company-managed poultry growing operations, as well as poultry growing operations under contract with it, follow all environmental laws and regulations, including those relating to obtaining and complying with an AWMP. As

the purpose of an AWMP is to “protect the natural resources of the State” (O.A.C. 35:17-5-2), Tyson Chicken submits that such AWMP’s are evidence that no run-off of any kind has occurred following the land application of poultry litter generated at its company-owned and company-managed poultry growing operations or at poultry growing operations under contract with it. All NMP’s and AWMP’s in the possession of Tyson Chicken have been produced and are located in the above-referenced contract grower files or at Bates numbers TSN18472SOK – TSN20640SOK.

REQUESTS FOR PRODUCTION OF DOCUMENTS

REQUEST FOR PRODUCTION NO. 1: Please produce all documents identified in the foregoing interrogatories.

RESPONSE TO REQUEST FOR PRODUCTION NO. 1: Objection. Request for Production No. 1 is untimely. Subject to and without waiving the foregoing objection, see Responses to Interrogatory Nos. 1 and 2.

REQUEST FOR PRODUCTION NO. 2: Please produce all documents evidencing land application of poultry waste from your poultry feeding operations, or those of your contract growers, in the IRW in which the land application was used as fertilizer, including but not limited to the specific date, specific location, tonnage of waste applied, acreage upon which it was applied, and STP before application.

RESPONSE TO REQUEST FOR PRODUCTION NO. 2: Objection. Request for Production No. 2 is untimely. Subject to and without waiving the foregoing objection, see Response to Interrogatory No. 1.

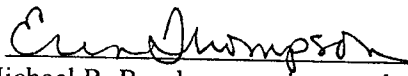
REQUEST FOR PRODUCTION NO. 3: Please produce all documents evidencing land application of poultry waste from your poultry feeding operations, or those of your contract

growers, in the IRW in which the land application of poultry waste has not resulted in any run-off or leaching, including but not limited to the specific date, specific location, tonnage of waste applied, acreage upon which it was applied, and STP before application.

RESPONSE TO REQUEST FOR PRODUCTION NO. 3: Objection. Request for Production No. 3 is untimely. Subject to and without waiving the foregoing objection, see Responses to Interrogatory Nos. 1 and 2.

Respectfully Submitted,

KUTAK ROCK LLP

By 
Michael R. Bond, *appearing pro hac vice*
Erin Thompson, *appearing pro hac vice*
Dustin R. Darst, *appearing pro hac vice*
KUTAK ROCK LLP
234 East Millsap Road, Suite 400
Fayetteville, Arkansas 72703-4099
(479) 973-4200 Telephone
(479) 973-0007 Facsimile

-and-

Robert W. George, OBA #18562
Bryan Burns, *appearing pro hac vice*
TYSON FOODS, INC.
2210 West Oaklawn Drive
Springdale, Arkansas 72762
(479) 290-4067 Telephone
(479) 290-7967 Facsimile

-and-

Patrick M. Ryan, OBA # 7864
Stephen L. Jantzen, OBA # 16247
Paula M. Buchwald, OBA # 20464
RYAN, WHALEY & COLDIRON, P.C.
119 North Robinson, Suite 900
Oklahoma City, Oklahoma 73102
(405) 239-6040 Telephone
(405) 239-6766 Facsimile

-and-

Jay T. Jorgensen, *appearing pro hac vice*
Thomas C. Green, *appearing pro hac vice*
Mark D. Hopson, *appearing pro hac vice*
Gordon Todd, *appearing pro hac vice*
SIDLEY AUSTIN LLP
1501 K Street, N.W.
Washington, D.C. 20005-1401
(202) 736-8000 Telephone
(202) 736-8711 Facsimile

Attorneys for Defendant Tyson Chicken,
Inc.

CERTIFICATE OF SERVICE

I certify that on the 16th day of April 2009, I electronically transmitted the attached document to the following:

W. A. Drew Edmondson, Attorney General
Kelly Hunter Burch, Assistant Attorney General
J. Trevor Hammons, Assistant Attorney General
Daniel P. Lennington, Assistant Attorney General

drew_edmondson@oag.state.ok.us
kelly_burch@oag.state.ok.us
trevor_hammons@oag.state.ok.us
daniel.lennington@oag.ok.gov

Douglas Allen Wilson
Melvin David Riggs
Richard T. Garren
Sharon K. Weaver
Robert Allen Nance
Dorothy Sharon Gentry
Joseph P. Lennart
David P. Page
RIGGS ABNEY NEAL TURPEN ORBISON & LEWIS

doug_wilson@riggsabney.com
driggs@riggsabney.com
rgarren@riggsabney.com
sweaver@riggsabney.com
rnance@riggsabney.com
sgentry@riggsabney.com
jlennart@riggsabney.com
dpage@riggsabney.com

Louis W. Bullock
Robert M. Blakemore
BULLOCK BULLOCK & BLAKEMORE, PLLC

lbullock@bullock-blakemore.com
bblakemore@bullock-blakemore.com

Frederick C. Baker
Lee M. Heath
William H. Narwold
Elizabeth C. Ward
Elizabeth Claire Xidis
Ingrid L. Moll
Jonathan D. Orent
Michael G. Rousseau
Fidelma L. Fitzpatrick
MOTLEY RICE, LLC
COUNSEL FOR PLAINTIFFS

fbaker@motleyrice.com
lheath@motleyrice.com
bnarwold@motleyrice.com
lward@motleyrice.com
cxidis@motleyrice.com
imoll@motleyrice.com
jorent@motleyrice.com
mrousseau@motleyrice.com
ffitzpatrick@motleyrice.com

A. Scott McDaniel
Nicole Longwell
Philip D. Hixon
Craig A. Mirkes
MCDANIEL HIXON LONGWELL & ACORD, PLLC

smcdaniel@mhla-law.com
nlongwell@mhla-law.com
phixon@mhla-law.com
cmirkes@mhla-law.com

Sherry P. Bartley
MITCHELL, WILLIAMS, SELIG, GATES & WOODYARD, PLLC
COUNSEL FOR PETERSON FARMS, INC.

sbartley@mwsqw.com

R. Thomas Lay
KERR, IRVINE, RHODES & ABLES

rtl@kiralaw.com

David G. Brown
Jennifer S. Griffin
LATHROP & GAGE, L.C.
COUNSEL FOR WILLOW BROOK FOODS, INC.

dbrown@lathropgage.com
jgriffin@lathropgage.com

Robert P. Redemann
David C. Senger
PERRINE, MCGIVERN, REDEMANN, REID, BERRY & TAYLOR, PLLC

rredemann@pmrlaw.net
dsenger@pmrlaw.net

Robert E. Sanders
E. Stephen Williams
YOUNG WILLIAMS P.A.
COUNSEL FOR CAL-MAINE FOODS, INC. AND CAL-MAINE FARMS, INC.

rsanders@youngwilliams.com
steve.williams@youngwilliams.com

George W. Owens
Randall E. Rose
THE OWENS LAW FIRM, P.C.

gwo@owenslawfirmmpc.com
rer@owenslawfirmmpc.com

James M. Graves
Gary V. Weeks
Woody Bassett
K.C. Dupps Tucker
Earl Lee "Buddy" Chadick
BASSETT LAW FIRM
COUNSEL FOR GEORGE'S INC. AND GEORGE'S FARMS, INC.

jgraves@bassettlawfirm.com
gweeks@bassettlawfirm.com
wbassett@bassettlawfirm.com
kctucker@bassettlawfirm.com

John R. Elrod
Vicki Bronson
Bruce W. Freeman
D. Richard Funk
P. Joshua Wisley
CONNER & WINTERS, PLLC
COUNSEL FOR SIMMONS FOODS, INC.

jelrod@cwlaw.com
vbronson@cwlaw.com
bfreeman@cwlaw.com
dfunk@cwlaw.com
jwisley@cwlaw.com

John H. Tucker
Colin H. Tucker
Theresa Noble Hill

jtucker@rhodesokla.com
chtucker@rhodesokla.com
thill@rhodesokla.com

Kerry R. Lewis
RHODES, HIERONYMUS, JONES, TUCKER & GABLE

klewiscourts@rhodesokla.com

Terry W. West
THE WEST LAW FIRM

terry@thewestlawfirm.com

Delmar R. Ehrich
Bruce Jones
Krisann C. Kleibacker Lee
Todd P. Walker
Melissa C. Collins
FAEGRE & BENSON LLP

dehrich@faegre.com
bjones@faegre.com
kklee@faegre.com
twalker@faegre.com
mcollins@faegre.com

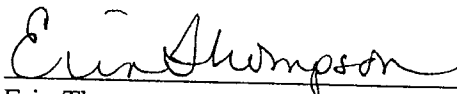
Dara D. Mann
MCKENNA, LONG & ADLRIDGE, LLP

dmann@mckennalong.com

COUNSEL FOR CARGILL, INC. AND CARGILL TURKEY PRODUCTION, LLC

I also hereby certify that I served the attached documents by United States Postal Service, proper postage paid, on the following:

Mr. J.D. Strong
Secretary of the Environment
State of Oklahoma
3800 North Classen
Oklahoma City, OK 73118


Erin Thompson

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

STATE OF OKLAHOMA, et al.)	
)	
Plaintiffs,)	
)	
vs.)	4:05-cv-00329-GKF-SAJ
)	
TYSON FOODS, INC., et al.,)	
)	
Defendants.)	

**COBB-VANTRESS, INC.'S RESPONSES TO THE STATE OF
OKLAHOMA'S INTERROGATORIES AND REQUESTS FOR PRODUCTION OF
DOCUMENTS OF MARCH 17, 2009**

Defendant COBB-VANTRESS, INC. (hereinafter referred to as "Defendant" or "Cobb-Vantress") submits its Responses to the State of Oklahoma's Interrogatories and Requests for Production of Documents of March 17, 2009. Cobb-Vantress submits these answers and responses for itself and not for any other person or entity.

INTERROGATORIES

INTERROGATORY NO. 1: Please identify for each instance (including, where available, specific date, specific location, tonnage of waste applied, acreage upon which it was applied, and STP before application) in which poultry waste generated at your poultry feeding operations, or at poultry feeding operations under contract with you, has been land applied within the IRW as fertilizer, identifying all witnesses to the application and all documents evidencing it.

RESPONSE TO INTERROGATORY NO. 1: Objection. Interrogatory No. 1 is untimely. Additionally, the State of Oklahoma has exceeded the number of interrogatories allowed under Federal Rule of Civil Procedure 33(a)(1). Plaintiffs have previously served a total of 26 interrogatories upon Defendant Cobb-Vantress, Inc.

Further, Interrogatory No. 1 seeks information which is the subject of previously served and answered interrogatories, requests for production, and requests for admission. *See* July 10, 2006 Set of Requests for Production, RFP Nos. 13-14 and 58-59 and responses thereto, including documents Bates numbered TSN112625SOK, TSN114670SOK, TSN122039SOK – TSN122042SOK, TSN122197SOK, TSN122568SOK – TSN122569SOK; April 20, 2007 Set of Requests to Admit and Request for Production, RFA No. 1 and RFP No. 1 and responses thereto; September 13, 2007 Set of Interrogatories and Requests for Production, Interrogatory Nos. 6-7 and RFP No. 16 and responses thereto.

Additionally, Plaintiffs have conducted 30(b)(6) depositions of Defendant Cobb-Vantress, Inc. on the following topics associated with the land application of poultry litter: a) “industry practice and your contract poultry growers practice regarding handling, storage, and spreading on land of poultry waste” and b) “the amount of and specific locations, past and present, where poultry waste generated by each and all of your poultry growing operations has been spread on land within the IRW.”

Subject to and without waiving the foregoing objections, Cobb-Vantress has no knowledge of specific land applications of poultry litter generated at poultry feeding operations under contract with it. Cobb-Vantress does not routinely maintain litter application records for poultry growing operations under contract with it, but any such documents which are in the possession of Cobb-Vantress are located in grower files Bates numbered TSN59500SOK – TSN60270SOK, TSN60333SOK – TSN60334SOK, TSN60336SOK – TSN60338SOK, TSN60340SOK – TSN60343SOK, TSN60347SOK, TSN60376SOK – TSN62426SOK, TSN86626SOK – TSN86657SOK, TSN90079SOK – TSN90420SOK, TSN115147SOK – TSN115149SOK, TSN115161SOK – TSN115358SOK, and TSN125180ASOK –

TSN125638SOK. With respect to poultry growing operations owned or managed by Cobb-Vantress, any litter application records maintained by Cobb-Vantress have been produced and are contained in the following Bates number range: TSN60271SOK – TSN60332SOK, TSN60335SOK, TSN60339SOK, TSN60344SOK – TSN60346SOK, TSN60348SOK – TSN60375SOK, TSN86658SOK – TSN86919SOK, TSN115069SOK – TSN115146SOK, TSN115150SOK – TSN115160SOK, and TSN164412SOK – TSN164414SOK.

INTERROGATORY NO. 2: Please identify for each instance (including, where available, specific date, specific location, tonnage of waste applied, acreage upon which it was applied, and STP before application) where poultry waste generated at your poultry feeding operations, or at poultry feeding operations under contract with you, has been land applied within the IRW which has not resulted in any run-off or leaching, identifying all witnesses to the application and all documents evidencing it.

RESPONSE TO INTERROGATORY NO. 2: Objection. Interrogatory No. 2 is untimely. Additionally, the State of Oklahoma has exceeded the number of interrogatories allowed under Federal Rule of Civil Procedure 33(a)(1). Plaintiffs have previously served a total of 26 interrogatories upon Defendant Cobb-Vantress, Inc.

Further, Interrogatory No. 2 seeks information which is the subject of previously served and answered interrogatories, requests for production, and requests for admission. *See* July 10, 2006 Set of Requests for Production, RFP Nos. 13-14 and 58-59 and responses thereto, including documents Bates numbered TSN112625SOK, TSN114670SOK, TSN122039SOK – TSN122042SOK, TSN122197SOK, TSN122568SOK – TSN122569SOK; April 20, 2007 Set of Requests to Admit and Request for Production, RFA No. 1 and RFP No. 1 and responses thereto; September 13, 2007 Set of Interrogatories and Requests for Production, Interrogatory Nos. 6-7

and RFP No. 16 and responses thereto.

Additionally, Plaintiffs have conducted 30(b)(6) depositions of Defendant Cobb-Vantress, Inc. on the following topics associated with the land application of poultry litter: a) "industry practice and your contract poultry growers practice regarding handling, storage, and spreading on land of poultry waste" and b) "the amount of and specific locations, past and present, where poultry waste generated by each and all of your poultry growing operations has been spread on land within the IRW."

Interrogatory No. 2 is vague and ambiguous as it does not specifically identify as the subject of inquiry any particular substance of potential run-off or leaching. Further, through Interrogatory No. 2, Plaintiffs attempt to shift the burden of proof in this action. Plaintiff is required to prove that run-off or leaching has occurred; Cobb-Vantress is not required to prove that run-off or leaching has not occurred.

Subject to and without waiving the foregoing objections, Cobb-Vantress has no knowledge of specific land applications of poultry litter generated at poultry feeding operations under contract with it. Cobb-Vantress does not routinely maintain litter application records for poultry growing operations under contract with it, but any such documents which are in the possession of Cobb-Vantress are located in grower files Bates numbered TSN59500SOK – TSN60270SOK, TSN60333SOK – TSN60334SOK, TSN60336SOK – TSN60338SOK, TSN60340SOK - TSN60343SOK, TSN60347SOK, TSN60376SOK – TSN62426SOK, TSN86626SOK – TSN86657SOK, TSN90079SOK – TSN90420SOK, TSN115147SOK – TSN115149SOK, TSN115161SOK - TSN115358SOK, and TSN125180ASOK – TSN125638SOK. With respect to poultry growing operations owned or managed by Cobb-Vantress, any litter application records maintained by Cobb-Vantress have been produced and

are contained within the following Bates number range: TSN60271SOK – TSN60332SOK, TSN60335SOK, TSN60339SOK, TSN60344SOK – TSN60346SOK, TSN60348SOK – TSN60375SOK, TSN86658SOK – TSN86919SOK, TSN115069SOK – TSN115146SOK, TSN115150SOK – TSN115160SOK, and TSN164412SOK – TSN164414SOK.

Cobb-Vantress requires that its company-managed poultry growing operations, as well as poultry growing operations under contract with it, follow all environmental laws and regulations, including those relating to obtaining and complying with an AWMP. As the purpose of an AWMP is to “protect the natural resources of the State” (O.A.C. 35:17-5-2), Cobb-Vantress submits that such AWMP’s are evidence that no run-off of any kind has occurred following the land application of poultry litter generated at its company-owned and company-managed poultry growing operations or at poultry growing operations under contract with it. All NMP’s and AWMP’s in the possession of Cobb-Vantress have been produced and are located in contract grower files Bates numbered TSN59500SOK – TSN62426SOK, TSN86626SOK – TSN86919SOK, TSN900079SOK – TSN90420SOK, TSN115069SOK – TSN115358SOK, TSN164412SOK – TSN164414SOK.

REQUESTS FOR PRODUCTION OF DOCUMENTS

REQUEST FOR PRODUCTION NO. 1: Please produce all documents identified in the foregoing interrogatories.

RESPONSE TO REQUEST FOR PRODUCTION NO. 1: Objection. Request for Production No. 1 is untimely. Subject to and without waiving the foregoing objection, see Responses to Interrogatory Nos. 1 and 2.

REQUEST FOR PRODUCTION NO. 2: Please produce all documents evidencing land application of poultry waste from your poultry feeding operations, or those of your contract

growers, in the IRW in which the land application was used as fertilizer, including but not limited to the specific date, specific location, tonnage of waste applied, acreage upon which it was applied, and STP before application.

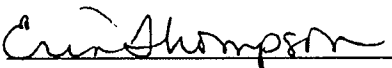
RESPONSE TO REQUEST FOR PRODUCTION NO. 2: Objection. Request for Production No. 2 is untimely. Subject to and without waiving the foregoing objection, see Response to Interrogatory No. 1.

REQUEST FOR PRODUCTION NO. 3: Please produce all documents evidencing land application of poultry waste from your poultry feeding operations, or those of your contract growers, in the IRW in which the land application of poultry waste has not resulted in any run-off or leaching, including but not limited to the specific date, specific location, tonnage of waste applied, acreage upon which it was applied, and STP before application.

RESPONSE TO REQUEST FOR PRODUCTION NO. 3: Objection. Request for Production No. 3 is untimely. Subject to and without waiving the foregoing objection, see Responses to Interrogatory Nos. 1 and 2.

Respectfully Submitted,

KUTAK ROCK LLP

By 

Michael R. Bond, *appearing pro hac vice*

Erin Thompson, *appearing pro hac vice*

Dustin R. Darst, *appearing pro hac vice*

KUTAK ROCK LLP

234 East Millsap Road, Suite 400

Fayetteville, Arkansas 72703-4099

(479) 973-4200 Telephone

(479) 973-0007 Facsimile

-and-

Robert W. George, OBA #18562
Bryan Burns, *appearing pro hac vice*
TYSON FOODS, INC.
2210 West Oaklawn Drive
Springdale, Arkansas 72762
(479) 290-4067 Telephone
(479) 290-7967 Facsimile

-and-

Patrick M. Ryan, OBA # 7864
Stephen L. Jantzen, OBA # 16247
Paula M. Buchwald, OBA # 20464
RYAN, WHALEY & COLDIRON, P.C.
119 North Robinson, Suite 900
Oklahoma City, Oklahoma 73102
(405) 239-6040 Telephone
(405) 239-6766 Facsimile

-and-

Jay T. Jorgensen, *appearing pro hac vice*
Thomas C. Green, *appearing pro hac vice*
Mark D. Hopson, *appearing pro hac vice*
Gordon Todd, *appearing pro hac vice*
SIDLEY AUSTIN LLP
1501 K Street, N.W.
Washington, D.C. 20005-1401
(202) 736-8000 Telephone
(202) 736-8711 Facsimile

Attorneys for Defendant Cobb-Vantress,
Inc.

CERTIFICATE OF SERVICE

I certify that on the 16th day of April 2009, I electronically transmitted the attached document to the following:

W. A. Drew Edmondson, Attorney General
Kelly Hunter Burch, Assistant Attorney General
J. Trevor Hammons, Assistant Attorney General
Daniel P. Lennington, Assistant Attorney General

drew_edmondson@oag.state.ok.us
kelly_burch@oag.state.ok.us
trevor_hammons@oag.state.ok.us
daniel.lennington@oag.ok.gov

Douglas Allen Wilson
Melvin David Riggs
Richard T. Garren
Sharon K. Weaver
Robert Allen Nance
Dorothy Sharon Gentry
Joseph P. Lennart
David P. Page
RIGGS ABNEY NEAL TURPEN ORBISON & LEWIS

doug_wilson@riggsabney.com
driggs@riggsabney.com
rgarren@riggsabney.com
sweaver@riggsabney.com
rnance@riggsabney.com
sgentry@riggsabney.com
jlennart@riggsabney.com
dpage@riggsabney.com

Louis W. Bullock
Robert M. Blakemore
BULLOCK BULLOCK & BLAKEMORE, PLLC

lbullock@bullock-blakemore.com
bblakemore@bullock-blakemore.com

Frederick C. Baker
Lee M. Heath
William H. Narwold
Elizabeth C. Ward
Elizabeth Claire Xidis
Ingrid L. Moll
Jonathan D. Orent
Michael G. Rousseau
Fidelma L. Fitzpatrick
MOTLEY RICE, LLC

fbaker@motleyrice.com
lheath@motleyrice.com
bnarwold@motleyrice.com
lward@motleyrice.com
cxidis@motleyrice.com
imoll@motleyrice.com
jorent@motleyrice.com
mrousseau@motleyrice.com
ffitzpatrick@motleyrice.com

COUNSEL FOR PLAINTIFFS

A. Scott McDaniel
Nicole Longwell
Philip D. Hixon
Craig A. Mirkes
MCDANIEL HIXON LONGWELL & ACORD, PLLC

smcdaniel@mhla-law.com
nlongwell@mhla-law.com
phixon@mhla-law.com
cmirkes@mhla-law.com

Sherry P. Bartley
MITCHELL, WILLIAMS, SELIG, GATES & WOODYARD, PLLC
COUNSEL FOR PETERSON FARMS, INC.

sbartley@mwsgw.com

R. Thomas Lay
KERR, IRVINE, RHODES & ABLES

rtl@kiralaw.com

David G. Brown dbrown@lathropgagel.com
Jennifer S. Griffin jgriffin@lathropgagel.com
LATHROP & GAGE, L.C.
COUNSEL FOR WILLOW BROOK FOODS, INC.

Robert P. Redemann rredemann@pmrlaw.net
David C. Senger dsenger@pmrlaw.net
PERRINE, MCGIVERN, REDEMANN, REID, BERRY & TAYLOR, PLLC

Robert E. Sanders rsanders@youngwilliams.com
E. Stephen Williams steve.williams@youngwilliams.com
YOUNG WILLIAMS P.A.
COUNSEL FOR CAL-MAINE FOODS, INC. AND CAL-MAINE FARMS, INC.

George W. Owens gwo@owenslawfirmmpc.com
Randall E. Rose rer@owenslawfirmmpc.com
THE OWENS LAW FIRM, P.C.

James M. Graves jgraves@bassettlawfirm.com
Gary V. Weeks gweeks@bassettlawfirm.com
Woody Bassett wbassett@bassettlawfirm.com
K.C. Dupps Tucker kctucker@bassettlawfirm.com
Earl Lee "Buddy" Chadick
BASSETT LAW FIRM
COUNSEL FOR GEORGE'S INC. AND GEORGE'S FARMS, INC.

John R. Elrod jelrod@cwlaw.com
Vicki Bronson vbronson@cwlaw.com
Bruce W. Freeman bfreeman@cwlaw.com
D. Richard Funk dfunk@cwlaw.com
P. Joshua Wisley jwisley@cwlaw.com
CONNER & WINTERS, PLLC
COUNSEL FOR SIMMONS FOODS, INC.

John H. Tucker jtucker@rhodesokla.com
Colin H. Tucker chtucker@rhodesokla.com
Theresa Noble Hill thill@rhodesokla.com
Kerry R. Lewis klewiscourts@rhodesokla.com
RHODES, HIERONYMUS, JONES, TUCKER & GABLE

Terry W. West terry@thewestlawfirm.com
THE WEST LAW FIRM

Delmar R. Ehrich dehrich@faegre.com
Bruce Jones bjones@faegre.com
Krisann C. Kleibacker Lee kkleee@faegre.com
Todd P. Walker twalker@faegre.com
Melissa C. Collins mcollins@faegre.com
FAEGRE & BENSON LLP

Dara D. Mann

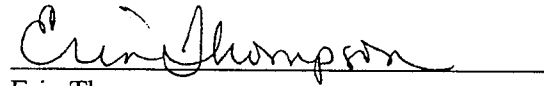
dmann@mckennalong.com

MCKENNA, LONG & ADLRIDGE, LLP

COUNSEL FOR CARGILL, INC. AND CARGILL TURKEY PRODUCTION, LLC

I also hereby certify that I served the attached documents by United States Postal Service, proper postage paid, on the following:

Mr. J.D. Strong
Secretary of the Environment
State of Oklahoma
3800 North Classen
Oklahoma City, OK 73118


Erin Thompson